

Fitness to study procedure – Common Awards students

This procedure sets out the formal steps which will be taken by the Federation when there is concern that a student's behaviour or health is seriously disrupting the welfare or academic progress of the student, or of others in the Federation, or has the potential to do so. It applies to all students registered on Common Awards programmes.

The procedure should not be initiated until all avenues of local support have been explored and, in the case of students with disabilities, all reasonable adjustments have been determined and put in place, or declined (in whole or part) by the student.

Any action taken under this procedure will be limited to that necessary and proportionate to protect the best interests of the student and other members of the Federation. No part of this procedure can be used to exclude a student from their own member institution ("House").

Legitimate concerns about a student's fitness to study may be raised by anyone working or teaching in the Federation and must be raised in writing to the Federation's Head of Central Services (HoCS¹).

Circumstances under which this procedure may be implemented

A student's fitness to study may be brought into question as a result of a wide range of circumstances. These include, but are not restricted to:

- serious concerns about the student's behaviour or health emerge which indicate that there is a need to address the student's fitness to study;
- behaviour that would otherwise be dealt with as a disciplinary matter, but might be the result of an underlying physical or mental condition which has not been resolved through informal support;
- the student's academic performance or persistent behaviour is considered to be unacceptable and this is thought to be the result of an underlying problem which may mean they are not fit to study;
- serious concerns arise about the student's fitness to sit examinations or other assessment.

Exclusion

In cases where a student's condition or conduct gives rise to a need for immediate action, the student may be excluded from the Federation's facilities and premises including those of its member institutions, or their access to such facilities and premises may be made subject to specified conditions, for periods of up to 21 days.

The HoCS, in consultation with the student's Principal is empowered to make a determination under this provision in the first instance, with subsequent renewals and/or variations of the arrangements being determined by the Chair appointed to consider the student's case. Prior to determining

¹ The HoCS may designate a deputy to act in their place in connection with this procedure, in which event any reference to the HoCS in this procedure shall be deemed to be a reference to such a deputy.

whether arrangements should be renewed and/or varied, the Chair shall invite the student to make written representations and shall take into account any representations submitted by the student.

The Chair shall have the discretion to revoke any exclusion under this procedure.

Review by a student's House

Concerns regarding a student's fitness to study will first be referred by the HoCS to the student's Director of Studies (DoS) or the Principal of their House. The House is expected to try to resolve the matter under their pastoral responsibilities and applicable processes and to ensure that an appropriate record of the handling of the matter is made and retained.

The House will let the referrer and the HoCS know that the matter has been acted on but not normally give details of its resolution.

Convening a Fitness to Study Panel

If processes within a student's House have not been successful in resolving satisfactorily concerns about the student's fitness to study the case may be referred to a Fitness to Study Panel by setting out the grounds for concern in writing to the Federations' Head of Central Services (HoCS) who will convene a panel.

The panel shall comprise:

- a. A Principal of a House other than the student's to chair the panel (the "Chair");
- b. The HoCS;
- c. A member of the Durham Academic Oversight Group who is not from the student's House.

A secretary to the panel will normally be provided from the Bounds House team.

Members of the panel shall be appointed by the HoCS within 21 days of the receipt of a written referral under this procedure (or, in the case of a panel being appointed to consider an application to resume study, within 21 days of the receipt of the application). No member of a panel shall have any potential conflict of interest or previous involvement in the case.

The panel will give preliminary consideration to any written referral made under this procedure to determine whether a *prima facie* case has been made to warrant further consideration under this procedure. If the panel considers that there is no *prima facie* case it may decline to consider the case further, or may refer it for consideration under disciplinary or other procedures as it deems appropriate.

Notice of meeting

The Chair will set a date for a formal meeting of the panel to hear the case, which date may be changed by the Chair if the circumstances require it.

The student will be given at least 14 days' notice of the date of the meeting of the panel. The student will be informed of the time, venue, and purpose of the hearing, and will be provided with any documents to be considered at the meeting. They will be invited to provide any documentation which they wish the panel to consider. The Secretary will ensure that all parties have access to the same documents.

If the student is unable to attend the meeting, or declines to do so, the panel may agree to proceed in the student's absence.

The student may be accompanied and/or represented (including in their absence) at the meeting by a fellow student registered on a Common Awards programme, their DoS, or other person approved by the Chair. A support worker may also accompany a disabled student. The student should notify the Secretary at least 48 hours in advance of the meeting if they intend to attend the meeting and if they are to be accompanied and/or represented, and, if so, by whom. Where a student attends the meeting but is represented, the student may still be required to answer questions at the Chair's discretion.

If any person has been or is liable to be prosecuted for an offence under the criminal law in respect of any conduct set out in a written referral under this procedure as giving cause for concern about a student's fitness to study, or where such conduct warrants referral to an external agency, the Chair may stay all or part of the proceedings under this procedure for such period(s) as they may think fit.

The meeting

The purpose of the meeting will be to consider the evidence available and to reach an appropriate decision, action plan, or other outcome.

The student's DoS, will be requested to provide relevant written evidence to the panel, and may be requested to attend at the Chair's discretion.

The panel may request other specialist opinion, including medical reports or reports from other specialist advisers, and may also request to see documents and records resulting from consideration of the student's case by the student's House under its procedures.

The panel may ask the student to attend a consultation with an expert but the panel may proceed to consider the student's fitness to study notwithstanding a refusal or failure by the student to attend a consultation as requested.

Subject to the express provisions of this procedure, the Chair shall otherwise have the power to regulate the arrangements for the provision of documentation and other evidence, as well as the conduct of the meeting.

Decisions of the Fitness for Study Panel

The panel shall make such decisions in respect of a student's fitness to study as it considers necessary and proportionate. These decisions may include, but are not limited to, one or more of:

- to suspend the student temporarily from the Federation and to determine the minimum period after which the Federation will consider an application to resume study, and what conditions, if any, must be met before an application to resume study may be made;
- to exclude the student permanently from the Federation;
- to provide that the student's access to Federation facilities and premises, and those of its members, shall be subject to specified conditions;
- to refer the case for consideration under the Federation's disciplinary procedures;
- to agree that no further action be taken by the Federation; and/or
- to make such recommendations, including to the student's House, and/or direct such actions, in respect of the student, as the panel thinks fit.

Where a panel decides that a student's access to Federation facilities and premises shall be subject to specified conditions, the panel shall stipulate arrangements for monitoring the student's compliance with those conditions and for dealing with any alleged breach of those conditions on the part of the student.

The panel may make a decision by a simple majority.

The student, the Principal of their House and their DoS shall be notified in writing of the decision of the panel, with reasons, within 14 days of the meeting.

Applications to return to study

A student who has been temporarily suspended from the Federation under this procedure may make an application addressed to the HoCS for permission to resume study after such period and subject to meeting such conditions as may have been determined by the panel.

The application to return will be considered at the discretion of the HoCS either by the same panel who made the decision temporarily to suspend the student or by a newly constituted panel. The application shall be heard at a meeting of the panel, save that, if, having reviewed the student's application and any documentation submitted with it, the panel agrees that the student may be permitted to resume study either unconditionally or subject to specified conditions to which the student consents in writing, the panel may proceed without a meeting.

The Return to Study panel shall make such decisions in respect of a student's fitness to return to study as it considers necessary and proportionate. These decisions may include, but are not limited to, one or more of:

- to permit the student to resume study, subject (if the panel considers it appropriate) to specified conditions, including in the case of a disabled student defining reasonable adjustments, as appropriate, to support the student in her or his study and examination;
- to refuse the application to resume study and to determine the minimum period after which the Federation will consider a further application to resume study, and what conditions, if any, must be met before such an application to resume study may be made;

- to exclude the student permanently from the Federation; and/or
- to make such recommendations in respect of the student, including to the student's House, as the panel thinks fit.

Where a panel decides that a student's resumption of studies shall be subject to specified conditions, the panel shall stipulate arrangements for monitoring the student's compliance with those conditions and for dealing with any alleged breach of those conditions on the part of the student.

Review of a panel decision

A student may seek the review of a decision in relation to that student made by a Fitness to Study or Return to Study panel.

A request for review shall be made in writing and sent to the HoCS within 21 days of written notification of the panel's decision (unless, in exceptional circumstances, the HoCS permits a longer period). The request for review shall specify the grounds for review which may be one or more of:

- that there was material procedural irregularity in the consideration of the student's case;
- that there was bias or prejudice on the part of the panel;
- that the decision reached was perverse in that it was one which no reasonable panel could have reached on the available evidence; and/or
- that fresh material evidence is available, which was not available and/or presented for good reason at the time of the original meeting.

The request for review of a Fitness to Study outcome should be accompanied by supporting documentation.

The review will be held by a Federation Board member who has not been involved in the process and is not a member of the student's House.

The reviewer will consider the request for review, the documentation available to the panel, and (where appropriate) the procedure of the panel.

The reviewer, at their discretion, may hold a hearing and regulate arrangements for the conduct of the hearing.

The reviewer will issue an adjudication in writing as soon as possible, which shall normally be within one month of the receipt of the request for review or (if a hearing is held) within 14 days of the hearing. The reviewer shall have power to confirm, quash, or amend the decision of a panel or refer it back to the same panel or to a new panel.

The reviewer's adjudication is the final point of decision within the Federation.

A reviewer may summarily dismiss a request for review which seems to them to be vexatious or frivolous.